

**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.2.2
Eastern Division**

Dealer Management Systems Antitrust
Litigation, et al.

Plaintiff,

v.

Case No.: 1:18-cv-00864
Honorable Robert M. Dow
Jr.

CDK Global, LLC, et al.

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Monday, February 11, 2019:

MINUTE entry before the Honorable Jeffrey T. Gilbert: In-court ruling set for 2/20/19 at 1:30 p.m. on Dealership Class Plaintiffs' Motion to Compel Disclosure of CDK's Clawback Documents [294] and Motion to Compel Disclosure of 1,807 Documents Defendant CDK Global, Inc. Previously Disclosed to the Federal Trade Commission [308]. The Court intends to deny both Motions and provide its rationale for that ruling on 2/20/19. Both Motions are premised on Movants' argument that Defendant CDK Global, Inc. waived its attorney-client privilege by producing to the Federal Trade Commission certain documents that it now maintains are covered by the attorney-client privilege. The Court does not agree that CDK waived any privileges and will provide the rationale for this finding at the upcoming hearing. The Court is not formally entering its ruling with this docket entry, however. Today's order is solely for the parties' information concerning the purpose of the 2/20/19 hearing, and it does not trigger the appeal period under Rule 72 of the Federal Rules of Civil Procedure. There remains the issue of whether the documents being withheld by Defendant CDK, a sampling of which has been submitted for in camera review, are in fact covered by the attorney-client privilege. Dealership Class Plaintiffs' Motions to Compel [294] [308] were briefed before the parties had produced to each other comprehensive privilege logs, and the issue of privilege (particularly as to the documents that are the subject of Plaintiffs' Motions to Compel) has not been subjected to the adversarial process. The Court would like to discuss with the parties at the scheduled hearing the best way to resolve any remaining challenges to CDK's assertion of privilege over the so-called "claw back" documents under these circumstances. The Court also would like to address at the hearing the status of the data security, data integrity, and system performance issues that remain under advisement per the Court's order of 11/19/18 [442] pending rulings on motions to dismiss counterclaims that now have been issued. Finally, the Court also would like a report on the parties' progress with depositions. If the date and time for the hearing unilaterally selected by the Court presents an irreconcilable conflict for counsel, they jointly should communicate with the Court's courtroom deputy to set the hearing for a different date and time that work for them and the Court. Mailed notice(ber,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

For scheduled events, motion practices, recent opinions and other information, visit our web site at ***www.ilnd.uscourts.gov***.